

ESTTA Tracking number: **ESTTA190949**

Filing date: **02/06/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Aeffe S.p.A.
Granted to Date of previous extension	02/06/2008
Address	Via delle Querce, 51 San Giovanni in Marignano (Rimini), I-47842 ITALY

Domestic Representative	Keith E. Danish Attorney Kirkpatrick & Lockhart Preston Gates Ellis LLP 599 Lexington Avenue New York, NY 10022-6030 UNITED STATES nytrademarks@klgates.com, keith.danish@klgates.com Phone:(212) 536-3900
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Applicant Information

Application No	77145517	Publication date	10/09/2007
Opposition Filing Date	02/06/2008	Opposition Period Ends	02/06/2008
Applicant	Arroyo, Jesse, I 4010 hunters ridge drive Moseley, VA 23120 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing and apparel for men, women, young adults, children, and infants, namely, shirts, embroidered shirts, screen printed t-shirts, shorts, sport shirts, sweatshirts, sweatpants, socks, vests, belts, loungewear, sleepwear, undergarments, underpants, undershirts, bathrobes, footwear, swimsuits, jackets, pajamas, nightshirts, headwear, hats, baseball caps, embroidered caps, knitted hats, shoes, slippers, boots, sandals, sneakers, lingerie, nightgowns, tops, scarves, wraps, and gloves, sold via the Internet and retail stores

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2029524	Application Date	12/22/1994
Registration Date	01/14/1997	Foreign Priority	NONE

		Date	
Word Mark	PHILOSOPHY DI ALBERTA FERRETTI		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: articles of clothing, namely, trousers, pants, knickers, shorts, drawers, bras, corsets, singlets, shirts, chemisettes, pajamas, T-shirts, sweatshirts, pullovers, coats, jackets, rainwear, anoracks, topcoats, pelerines, skirts, dresses, frocks, blouses, short-tops, suits, slacks, overalls, jogging suits, fur coats and jackets, sashes, shawls, scarves, socks, stockings, tights, underwears, gloves, bathing suits, bath robes; footwear; hats		

U.S. Application No.	79027818	Application Date	06/09/2006
Registration Date	NONE	Foreign Priority Date	01/20/2006
Word Mark	PHILOSOPHY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: Articles of clothing, namely trousers, pants, knickers, dresses, shorts, drawers, bras, corsets, singlets, shirts, chemisettes, pajamas, t-shirts, sweatshirts, pullovers, coats, jackets, rainwear, anoraks, topcoats, pelerines, skirts, dresses, frocks, blouses, short-tops, suits, slacks, overalls, jogging suits, fur coats and jackets, sashes, shawls, scarves, socks, stockings, tights, underwear, gloves, bathing suits, bath robes, footwear, hats		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	PHILOSOPHY		
Goods/Services	Articles of clothing		

Attachments	79027818#TMSN.jpeg (1 page)(bytes) NY- #583511-v1-Not_of_Opposition_(227209-1_02_06_2008_10_02_25_AM).PDF (10 pages)(442938 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/keith e. danish/
Name	Keith E. Danish
Date	02/06/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

*In the Matter of Application Serial No. 77/145,517
Published in the Official Gazette of October 9, 2007*

Atty. Ref.: 0820190.00108

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Aeffe S.p.A., :

Opposer, :

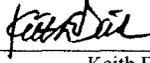
Opposition No.:

-against- :

Arroyo, Jesse I., :

Applicant. :
----- :

I hereby certify that this paper or fee is being transmitted to the United States Patent and Trademark Office Trademark Trial and Appeal Board using the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below:


Signature Keith E. Danish

Date: February 6, 2008

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Attention: Trademark Trial and Appeal Board

NOTICE OF OPPOSITION

Aeffe S.p.A., an Italian joint stock company, with a place of business located at Via delle Querce, 51, San Giovanni in Marignano (Rimini), I-47842, Italy [hereinafter "Opposer"], believes that it will be damaged by registration of the proposed trademark "PHILOSOPHI & DEVICE", as shown in Application Serial No. 77/145,517 filed March 31, 2007, and hereby opposes same.

As grounds for opposition, it is alleged that:

1. Jesse I. Arroyo, a U.S. citizen [hereinafter "Applicant"] has filed an application in the United States Patent and Trademark Office, Serial No. 77/145,517, filed March 31, 2007, for registration of the trademark "PHILOSOPHI & DEVICE" on the Principal Register in respect of "clothing and apparel for men, women, young adults, children, and infants, namely, shirts,

embroidered shirts, screen printed t-shirts, shorts, sport shirts, sweatshirts, sweatpants, socks, vests, belts, loungewear, sleepwear, undergarments, underpants, undershirts, bathrobes, footwear, swimsuits, jackets, pajamas, nightshirts, headwear, hats, baseball caps, embroidered caps, knitted hats, shoes, slippers, boots, sandals, sneakers, lingerie, nightgowns, tops, scarves, wraps, and gloves, sold via the Internet and retail stores” (Int’l. Class 25), with an allegation of an intention to use said mark in commerce.

2. Upon information and belief, Applicant has not used his alleged trademark “PHILOSOPHI & Device” (a) in commerce or (b) anywhere in the United States of America.

3. Opposer owns and has registered the trademark “PHILOSOPHY DI ALBERTA FERRETTI” on the Principal Register of the United States Patent and Trademark Office, Reg. No. 2,029,524, dated January 14, 1997, in respect of “articles of clothing, namely, “trousers, pants, knickers, shorts, drawers, bras, corsets, singlets, shirts, chemisettes, pajamas, t-shirts, sweatshirts, pullovers, coats, jackets, rainwear, anoracks, topcoats, pelerines, skirts, dresses, frocks, blouses, short-tops, suits, slacks, overalls, jogging suits, fur coats and jackets, sashes, shawls, scarves, socks, stockings, tights, underwears, gloves, bathing suits, bath robes; footwear; hats” (Int’l. Class 25). Registration No. 2,029,524 is valid, subsisting, and incontestable, and Opposer hereby gives notice, in accordance with Trademark Rule 2.122(d)(2), that it will rely on said registration as evidence on its behalf in this proceeding, and submits herewith status and title printouts for the registration from the “TARR” and “Assignments on the Web” databases of the United States Patent and Trademark Office.

4. Opposer has applied to register the trademark “PHILOSOPHY” on the Principal Register of the United States Patent and Trademark Office, Appl. Ser. No. 79/027,818, filed June 29, 2006, in respect of “articles of clothing, namely trousers, pants, knickers, dresses, shorts,

drawers, bras, corsets, singlets, shirts, chemisettes, pajamas, t-shirts, sweatshirts, pullovers, coats, jackets, rainwear, anoraks, topcoats, pelerines, skirts, dresses, frocks, blouses, short-tops, suits, slacks, overalls, jogging suits, fur coats and jackets, sashes, shawls, scarves, socks, stockings, tights, underwear, gloves, bathing suits, bath robes, footwear, hats” (Int’l. Class 25), with a claim of priority of January 20, 2006.

5. Opposer has made substantial and continuous use of its registered trademark “PHILOSOPHY DI ALBERTA FERRETTI” in commerce for articles of clothing and for other goods, since long prior to the filing date of Applicant’s trademark application and since long prior to any use by Applicant of its alleged trademark. Such use by Opposer has continued until the present time and is subsisting.

6. Opposer has made substantial and continuous use of the word “PHILOSOPHY” in commerce, as a common law trademark for articles of clothing and for other goods, since long prior to the filing date of Applicant’s trademark application and since long prior to any use by Applicant of its alleged trademark. Such use by Opposer has continued until the present time and is subsisting.

7. There is no issue of priority since the filing date of Applicant’s “PHILOSOPHI & DEVICE” trademark application and/or the date of first use (if any) of said mark are subsequent to the filing date of Opposer’s aforementioned trademark registration, to the filing date of Opposer’s aforementioned trademark application, and to the date(s) of first use of Opposer’s aforementioned trademarks in the U.S.A. or in commerce.

8. Opposer’s pleaded trademarks possess a high degree of inherent distinctiveness and represent extremely valuable assets and symbols of the goodwill of its business by

identifying goods which have their source of origin exclusively with Opposer, and by distinguishing such goods from those of others.

9. The dominant element of Applicant's alleged trademark is the word "PHILOSOPHI".

10. The word "PHILOSOPHI" is substantially identical to the word "PHILOSOPHY".

11. Applicant's alleged trademark is confusingly similar to Opposer's pleaded trademarks in sound, appearance and/or commercial impression.

12. The respective goods of the Opposer and the Applicant are identical, closely related and/or complementary, are likely to travel through the same channels of trade for sale to or use by the same general class of purchasers, and are likely to be sold by the same types of retail personnel.

13. Applicant's alleged trademark is calculated and/or likely to cause pre-purchase and/or post-purchase confusion, mistake and/or deception of purchasers or members of the public as to the respective marks of the Opposer and the Applicant, and also as to the source of origin or sponsorship of the goods for which such marks are used, or are intended to be used.

14. Applicant's alleged trademark is calculated or likely to cause irreparable loss, injury and/or damage to Opposer's business and to the goodwill thereto appertaining as symbolized and recognized by its aforementioned trademarks.

15. Applicant's alleged trademark is a colorable imitation or misappropriation of Opposer's pleaded trademarks, and its use will enable Applicant to reap where it has not sown by trading on the goodwill of Opposer's business as symbolized and recognized by its aforementioned trademarks.

16. Applicant's alleged trademark consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the Applicant, to cause confusion, or to cause mistake, or to deceive.

IN CONCLUSION, Opposer, by its undersigned attorneys, prays that its opposition to Application Serial No. 77/145,517 be sustained and that the Trademark Trial and Appeal Board grant any and all further relief to Opposer that the Board finds to be necessary and just in the circumstances.

The Commissioner is authorized to charge Deposit Account No. 08-0570 for any fees required to be paid in connection with this proceeding, including the opposition filing fee of \$300.

Respectfully submitted,

AEFFE S.p.A.

Dated: February 6, 2008

By: 

Mark I. Peroff

Keith E. Danish

KIRKPATRICK & LOCKHART

PRESTON GATES ELLIS LLP

599 Lexington Avenue

New York, N.Y. 10022-6030

Tel. No.: (212) 536-3900

E-Mail: nytrademarks@klgates.com

Attorneys for Opposer

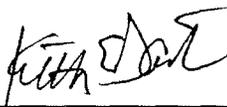
Atty. Ref.: 0820190.00108
Ser. No.: 77/145,517
Mark: **PHILOSOPHI & DEVICE**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *NOTICE OF OPPOSITION* was served on the date set forth below, by first class mail, postage prepaid, upon the Applicant at the following address:

Mr. Jesse I. Arroyo
4010 Hunters Ridge Drive
Moseley, VA 23120-1243

Dated: February 6, 2008

By: 

Keith E. Danish

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-02-05 12:59:33 ET

Serial Number: 74613796 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2029524

Mark (words only): PHILOSOPHY DI ALBERTA FERRETTI

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2007-03-08

Filing Date: 1994-12-22

Transformed into a National Application: No

Registration Date: 1997-01-14

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2007-03-08

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. AEFPE S.p.A.

Address:

AEFFE S.p.A.
VIA DELLE QUERCE, 51
SAN GIOVANNI DE MARIGNANO (RIMINI) 47842
Italy

Legal Entity Type: Joint Stock Company

State or Country Where Organized: Italy

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active

articles of clothing, namely, trousers, pants, knickers, shorts, drawers, bras, corsets, singlets, shirts, chemisettes, pajamas, T-shirts, sweatshirts, pullovers, coats, jackets, rainwear, anoracks, topcoats, pelerines, skirts, dresses,

frocks, blouses, short-tops, suits, slacks, overalls, jogging suits, fur coats and jackets, sashes, shawls, scarve socks, stockings, tights, underwears, gloves, bathing suits, bath robes; footwear; hats

Basis: 44(e)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Name Portrait Consent: "ALBERTA FERRETTI" is a living individual whose consent is of record.

Translation: The English translation of "DI" is "of".

Foreign Registration Number: 615781

Foreign Registration Date: 1994-03-23

Country: Italy

Foreign Expiration Date: 2013-12-30

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-03-08 - First renewal 10 year

2007-03-08 - Section 8 (10-year) accepted/ Section 9 granted

2007-03-06 - Assigned To Paralegal

2006-12-15 - Combined Section 8 (10-year)/Section 9 filed

2006-12-15 - TEAS Section 8 & 9 Received

2006-09-15 - Case File In TICRS

2005-08-20 - Review Of Correspondence Complete

2003-07-31 - FAX RECEIVED

2003-04-04 - Section 8 (6-year) accepted & Section 15 acknowledged

2003-01-13 - Section 8 (6-year) and Section 15 Filed

2003-01-13 - PAPER RECEIVED

1997-01-14 - Registered - Principal Register

1996-10-22 - Published for opposition
1996-09-20 - Notice of publication
1996-07-13 - Approved for Pub - Principal Register (Initial exam)
1996-05-24 - Communication received from applicant
1996-02-09 - Letter of suspension mailed
1995-11-24 - Communication received from applicant
1995-05-18 - Non-final action mailed
1995-05-15 - Assigned To Examiner
1995-05-05 - Assigned To Examiner
1995-04-26 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Mark I. Peroff

Correspondent

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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM
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Domestic Representative

MARK I. PEROFF



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

No assignment has been recorded at the USPTO

For Serial Number: 74613796

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.0.1
Web interface last modified: April 20, 2007 v.2.0.1

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